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EXAMINER

ZEWARI, SAYED T

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/542,980	<b>Applicant(s)</b> VARE ET AL.	
	<b>Examiner</b> SAYED T. ZEWARI	<b>Art Unit</b> 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-61 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-61 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 101***

1. Claim 38 is rejected under 35 U.S.C. 101 as not falling within one of the four statutory categories of invention. Supreme Court precedent<sup>1</sup> and recent Federal Circuit decisions<sup>2</sup> indicate that a statutory “process” under 35 U.S.C. 101 must (1) be tied to another statutory category (such as a particular apparatus), or (2) transform underlying subject matter (such as an article or material) to a different state or thing. While the instant claim(s) recite a series of steps or acts to be performed, the claim(s) neither transform underlying subject matter nor positively tie to another statutory category that accomplishes the claimed method steps, and therefore do not qualify as a statutory process. For example the claim 38 discloses a computer program but it is not tied to an actual device such as storage medium and does not disclose what apparatus using/running this program. There is no device or apparatus are tied to this program.

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<sup>1</sup> *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780, 787-88 (1876).

<sup>2</sup> *In re Bilski*, 88 USPQ2d 1385 (Fed. Cir. 2008).

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-12, 17-18, 28, 30-32, 35-51, and 54-61 are rejected under 35 U.S.C. 102(b) as being anticipated by Fischer (US 5,371,734).

With respect to claim 1, Fischer discloses a method for receiving a digital broadband transmission for saving power in a receiver (**See Fischer's col.5 lines 9-25**), the method comprising the steps of: providing information on parts of the digital broadband transmission, which are adapted to fit for saving the power in the receiver, for detecting said parts in the receiver (**See Fischer's col.5 lines 25-33, 34-39, 47-66, col.6 lines 19-22**), detecting said parts based on said provided information (**See Fischer's col.5 lines 47-66**), and switching at least part of the receiver on/off based on said provided information (**See Fischer's col.5 lines 47-66, 25-33, col.1 lines 22-28**).

With respect to claim 30, Fischer discloses a method for transmitting a digital broadband transmission for saving power in a receiver (**See Fischer's col.5 lines 9-25**), the method comprising the steps of: providing information on parts of the digital broadband transmission, which are adapted to fit for saving

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the power in the receiver, for categorizing said parts for an identification in the receiver **(See Fischer's col.5 lines 25-33, 34-39, 47-66, col.6 lines 19-22)**, and categorizing said parts based on said provided information for switching at least part of the receiver on/off in accordance with said provided information **(See Fischer's col.5 lines 47-66, 25-33, col.1 lines 22-28)**.

With respect to claim 42, Fischer discloses a system for providing a digital broadband transmission for saving power in a receiver **(See Fischer's col.5 lines 9-25)**, comprising: means for providing information on parts of the digital broadband transmission, which are adapted to fit for saving the power in the receiver **(See Fischer's col.5 lines 25-33, 34-39, 47-66, col.6 lines 19-22)**, for detecting said parts in the receiver **(See Fischer's col.5 lines 47-66)**, means for detecting said parts based on said provided information **(See Fischer's col.5 lines 47-66, 25-33, col.1 lines 22-28)**, and means for switching at least part of the receiver on/off based on said provided information **(See Fischer's col.5 lines 47-66, 25-33, col.1 lines 22-28)**.

With respect to claim 48, Fischer discloses a system for providing a receiver for receiving a digital broadband transmission for saving power in a receiver **(See Fischer's col.5 lines 9-25, 34-39)**, comprising: means for receiving information on parts of the digital broadband transmission, which are adapted to fit for saving the power in the receiver **(See Fischer's col.5 lines 25-33, 34-39, 47-66, col.6 lines 19-22)**, for detecting said parts **(See Fischer's col.5 lines 47-66)**, and means for detecting said parts based on said received information **(See Fischer's col.5 lines 47-66)**, and means for switching at least

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part of the receiver on/off based on said received information **(See Fischer's col.5 lines 47-66, 25-33, col.1 lines 22-28).**

With respect to claim 56, Fischer discloses a transmitter for transmitting a digital broadband transmission for saving power in a receiver **(See Fischer's col.5 lines 9-25, 34-39)**, comprising: means for providing information on parts of the digital broadband transmission, which are adapted to fit for saving the power in the receiver, for categorizing said parts for an identification in the receiver **(See Fischer's col.5 lines 25-33, 34-39, 47-66, col.6 lines 19-22)**, and means for categorizing said parts based on said provided information for switching at least part of the receiver on/off in accordance with said provided information **(See Fischer's col.5 lines 47-66, 25-33, col.1 lines 22-28).**

With respect to claim 2, Fischer discloses a method wherein the step of detecting further comprises step of separating said digital broadband transmission based on said provided information to said parts fitting for saving the power in the receiver and parts not fitting for saving the power in the receiver **(See Fischer's col.5 lines 25-33, 34-39, 47-66, col.6 lines 19-22).**

With respect to claim 3, Fischer discloses a method wherein at least one of said parts comprises a time sliced elementary stream, and said method further comprises step of identifying at least one time sliced elementary stream carried over a broadband network **(See Fischer's col.5 lines 9-25, 47-66).**

With respect to claim 4, Fischer discloses a method wherein said provided information includes information on a size of a service session contained in a burst of the digital broadband transmission, and said method further comprises

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step of: comparing available memory in the receiver to said size, and switching at least part of the receiver on/off based on a result obtained in said comparison **(See Fischer's col.5 lines 47-66, 25-33, col.1 lines 22-28).**

With respect to claim 5, Fischer discloses a method wherein the step of switching comprises steps of switching the receiver functionally on during relevant bursts of the digital broadband transmission relating to a uniform data concept, and switching the receiver at least partly off otherwise **(See Fischer's col.5 lines 47-66, 25-33, col.1 lines 22-28).**

With respect to claim 6, Fischer discloses a method wherein the digital broadband transmission is at least partly adapted to fit a principle wherein the receiver is functionally on during cyclical relevant bursts of the digital broadband transmission relating to a same service and at least partly off otherwise **(See Fischer's col.5 lines 47-66, 25-33, col.1 lines 22-28).**

With respect to claim 7, Fischer discloses a method wherein said parts comprise at least one of elementary streams of the digital broadband transmission and transport streams referred to in a NIT table **(See Fischer's col.5 lines 25-33, 34-39, 47-66, col.6 lines 19-22).**

With respect to claim 8, Fischer discloses a method wherein said digital broadband transmission at least partly comprises a time slice data broadband transmission **(See Fischer's col.5 lines 9-25).**

With respect to claim 9, Fischer discloses a method wherein the step of providing information comprises step of transmitting a descriptor of the digital broadband transmission **(See Fischer's col.5 47-66, lines 9-25).**

With respect to claim 10, Fischer discloses a method wherein the descriptor is adapted to specify maximum number of bits per a service session that the digital broadband transmission is providing within a burst of the digital broadband transmission **(See Fischer's col.5 47-66, lines 9-25).**

With respect to claim 11, Fischer discloses a method wherein IP data streams contained in at least one elementary stream are transmitted in accordance with time slicing broadband transmission **(See Fischer's col.5 lines 9-25).**

With respect to claim 12, Fischer discloses a method wherein the receiver is adapted to fit a memory usage of the receiver in accordance with the service session **(See Fischer's figure 4, col.14 46-48).**

With respect to claim 17, Fischer discloses a method wherein the step of providing information comprises step of indicating that an elementary stream contained within transport stream is not transmitted in accordance with time slice data broadband transmission of the digital broadband transmission **(See Fischer's col.5 lines 9-25).**

With respect to claim 18, Fischer discloses a method wherein a broadband network of the digital broadband transmission is adapted to operate at multi protocol encapsulation level and transmission stream level simultaneously with the different versions **(See Fischer's col.5 lines 9-25).**

With respect to claim 28, Fischer discloses a method wherein the digital broadband transmission comprises a wireless digital broadband transmission **(See Fischer's col.5 lines 9-25).**



With respect to claim 31, Fischer discloses a method wherein the step of categorizing further comprises step of categorizing said digital broadband transmission based on provided information to said parts fitting for saving the power in the receiver and parts not fitting for saving the power in the receiver **(See Fischer's col.5 lines 25-33, 34-39, 47-66, col.6 lines 19-22).**

With respect to claim 32, Fischer discloses a method wherein at least one of said parts comprises a time sliced elementary stream, and said method further comprises step of identifying at least one time sliced elementary stream carried over a broadband network **(See Fischer's col.5 lines 9-25, 47-66).**

With respect to claim 35, Fischer discloses a method wherein said parts comprise at least one of elementary streams of the digital broadband transmission and transport streams referred to in a NIT table **(See Fischer's col.5 lines 25-33, 34-39, 47-66, col.6 lines 19-22).**

With respect to claim 36, Fischer discloses a method wherein said transmission at least partly comprises time slice data broadcast transmission **(See Fischer's col.5 lines 9-25, 47-66).**

With respect to claim 37, Fischer discloses a data processing system comprising means for carrying out the steps of the method according to claims 1 or 30 **(See Fischer's figure 4 (90), col.14 lines 46-48).**

With respect to claim 38, Fischer discloses a data processing system wherein a computer program comprising computer program code means adapted to perform the steps of the method of claims 1 or 30 when said program is run on a computer 30 **(See Fischer's figure 4 (90), col.14 lines 46-48).**

With respect to claim 39, Fischer discloses a data processing system wherein a computer program as claimed in claim 38 embodied on a computer readable medium **(See Fischer's figure 4 (90), col.14 lines 46-48).**

With respect to claim 40, Fischer discloses a computer readable medium comprising program code adapted to carry out the method of claims 1 or 30 when run on a computer **(See Fischer's figure 4 (90), col.14 lines 46-48).**

With respect to claim 41, Fischer discloses a carrier medium carrying the computer executable program of claims 38 **(See Fischer's figure 4 (90), col.14 lines 46-48).**

With respect to claim 43, Fischer discloses a system, wherein the means for detecting further comprises means for separating said digital broadband transmission based on said provided information to said parts fitting for saving the power in the receiver and parts not fitting for saving the power in the receiver **(See Fischer's col.5 lines 25-33, 34-39, 47-66, col.6 lines 19-22).**

With respect to claim 44, Fischer discloses a system wherein the parts comprise at least one of elementary streams of the digital broadband transmission and transport streams referred to in a NIT table **(See Fischer's col.5 lines 25-33, 34-39, 47-66, col.6 lines 19-22).**

With respect to claim 45, Fischer discloses a system wherein the digital broadband transmission at least partly comprises a time slice data broadband transmission **(See Fischer's col.5 lines 9-25, 47-66).**

With respect to claim 46, Fischer discloses a system wherein at least one of said parts comprises a time sliced elementary stream, and said system further

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comprises means for identifying at least one time sliced elementary stream carried over a broadband network **(See Fischer's col.5 lines 9-25, 47-66).**

With respect to claim 47, Fischer discloses a system wherein said provided information includes information on a size of a service session contained in a burst of the digital broadband transmission, and said system further comprises: means for comparing available memory in the receiver to said size, and means for switching at least part of the receiver on/off based on a result obtained in said comparison **(See Fischer's col.5 lines 47-66, 25-33, col.1 lines 22-28).**

With respect to claim 49, Fischer discloses a receiver wherein the means for detecting further comprises means for separating said digital broadband transmission based on said provided information to said parts fitting for saving the power in the receiver and parts not fitting for saving the power in the receiver **(See Fischer's col.5 lines 25-33, 34-39, 47-66, col.6 lines 19-22).**

With respect to claim 50, Fischer discloses a receiver wherein the parts comprise one of elementary streams of the digital broadband transmission and transport streams referred to in a NIT table **(See Fischer's col.5 lines 25-33, 34-39, 47-66, col.6 lines 19-22).**

With respect to claim 51, Fischer discloses a receiver wherein the digital broadband transmission at least partly comprises time slice data broadcast transmission **(See Fischer's col.5 lines 9-25, 47-66).**

With respect to claim 54, Fischer discloses a receiver wherein at least one of said streams comprises a time sliced elementary stream, and said receiver

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further comprises means for identifying at least one time sliced elementary stream carried over a broadband network **(See Fischer's col.5 lines 9-25, 47-66).**

With respect to claim 55, Fischer discloses a receiver wherein said provided information includes information on a size of a service session contained in a burst of the digital broadband transmission, and said receiver further comprises: means for comparing available memory in the receiver to said size, and means for switching at least part of the receiver on/off based on a result obtained in said comparison **(See Fischer's col.5 lines 47-66, 25-33, col.1 lines 22-28).**

With respect to claim 57, Fischer discloses a transmitter wherein the means for categorizing further comprises means for categorizing said digital broadband transmission based on provided information to said parts fitting for saving the power in the receiver and parts not fitting for saving the power in the receiver **(See Fischer's col.5 lines 47-66, 25-33, col.1 lines 22-28).**

With respect to claim 58, Fischer discloses a transmitter wherein the parts comprise one of elementary streams of the digital broadband transmission and transport streams referred to in a NIT table **(See Fischer's col.5 lines 25-33, 34-39, 47-66, col.6 lines 19-22).**

With respect to claim 59, Fischer discloses a transmitter wherein the digital broadband transmission at least partly comprises time slice data broadcast transmission **(See Fischer's col.5 lines 9-25, 47-66).**

With respect to claim 60, Fischer discloses a transmitter wherein at least one of said parts comprises a time sliced elementary stream, and said transmitter further comprises means for categorizing at least one time sliced elementary stream carried over a broadband network (**See Fischer's col.5 lines 25-33, 34-39, 47-66, col.6 lines 19-22**).

With respect to claim 61, Fischer discloses a transmitter wherein said provided information includes information on a size of a service session contained in a burst of the digital broadband transmission, and said transmitter further comprises: means for adapting the receiver to compare available memory in the receiver to said size, and to switch at least part of the receiver on/off based on a result obtained in said comparison (**See Fischer's col.5 lines 47-66, 25-33, col.1 lines 22-28**).

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 13-16, 19-27, 29, 33-34, and 52-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fischer (US 5,371,734) in view of well-known prior art (MPEP 2144.03).

With respect to claim 13, Fischer discloses a method wherein specific information is provided to a device. Fischer does not specifically disclose that this information includes steps of limiting a size of a burst of the transmission. However, an official notice is taken that the concept and use of limiting the size of a burst of transmission are well known and expected in the art. Therefore, it would be obvious to one of ordinary skill in the art to include information regarding the size transmission burst and thus provide a method of controlling the size of transmission burst.

With respect to claim 14 and 15, Fischer discloses a method wherein specific information is provided to a device. Fischer does not specifically disclose that this information includes steps of indicating maximum burst duration of a transmission. However, an official notice is taken that the concept and use of indicating the maximum burst duration of transmission are well known and expected in the art. Therefore, it would be obvious to one of ordinary skill in the art to include information regarding the maximum duration of a burst in a transmission burst and thus provide a method of controlling the duration of transmission burst.

With respect to claim 16, Fischer discloses a method wherein specific information is provided to a device. Fischer does not specifically disclose that this information includes steps of indicating a version of data in the transmission. However, an official notice is taken that the concept and use of indicating the version of data in transmission are well known and expected in the art. Therefore, it would be obvious to one of ordinary skill in the art to include

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information regarding the version of data in a transmission burst and thus provide a method of identifying transmission burst.

With respect to claim 19, Fischer discloses a method wherein specific information is provided to a device. Fischer does not specifically disclose that this information includes steps of indicating a tolerance for a time for a reception of transmission. However, an official notice is taken that the concept and use of indicating the tolerance for a time for a reception are well known and expected in the art. Therefore, it would be obvious to one of ordinary skill in the art to include information regarding the tolerance for a time of reception in a transmission burst and thus provide a method of synchronization.

With respect to claim 20, Fischer discloses a method wherein specific information is provided to a device. Fischer does not specifically disclose that this information includes SI/PSI tables of the digital broadband transmission. However, an official notice is taken that the concept and use of SI/PSI tables in transport streams are well known and expected in the art. Therefore, it would be obvious to one of ordinary skill in the art to include information regarding SI/PSI in a transmission stream in order to identify various services.

With respect to claim 21, Fischer discloses a method wherein said information is provided in a NIT table for providing information per each transport stream of the digital broadband transmission **(See Fischer's col.5 lines 25-33, 34-39, 47-66, col.6 lines 19-22).**

With respect to claim 22, Fischer discloses a method wherein specific information is provided to a device. Fischer does not specifically disclose that this

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information is provided in a PMT table for providing information per each elementary stream. However, an official notice is taken that the concept and use of Program Map Table (PMT) are well known and expected in the art. Therefore, it would be obvious to one of ordinary skill in the art to include PMT table in a transmission stream in order to identify various services.

With respect to claim 23 and 24, Fischer discloses a method wherein specific information is provided to a device. Fischer does not specifically disclose that this information is provided in a INT for providing information per each elementary stream carrying at least one IP/MAC stream of the digital broadband transmission. However, an official notice is taken that the concept and use of IP and MAC are well known and expected in the art. Therefore, it would be obvious to one of ordinary skill in the art to use IP and MAC in a transmission stream in order to identify various services.

With respect to claim 26, 27, 29 and 52, Fischer discloses a method wherein specific information is provided to a device via transmission. Fischer does not specifically disclose that this data transmission is DVB transmission. However, an official notice is taken that the concept and use of digital video broadcast (DVB) are well known and expected in the art. Therefore, it would be obvious to one of ordinary skill in the art to use in their transmission of DVB in order to provide video services.

With respect to claim 53, Fischer discloses a receiver wherein the receiver further comprises a mobile station for interaction with the digital broadcast transmission **(See Fischer's col.5 lines 9-25, 47-66).**



With respect to claim 33 and 34, Fischer discloses a method wherein specific information is provided to a device. Fischer does not specifically disclose that this information is transmitted as bursts consecutive bursts relating to a different service. However, an official notice is taken that the concept and use of transmission in the form of burst or consecutive bursts are well known and expected in the art. Therefore, it would be obvious to one of ordinary skill in the art to use burst of transmission either consecutive or otherwise to transmit data.

With respect to claim 25, Fischer discloses a method wherein specific information is provided to a device. Fischer does not specifically disclose that this information is multi-carrier signal transmission. However, an official notice is taken that the concept and use of multi carrier signal such as MC-CDMA are well known and expected in the art. Therefore, it would be obvious to one of ordinary skill in the art to use a multi carrier signal transmission in order to increase the efficiency of transmission

### ***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sayed T. Zewari whose telephone number is 571-272-6851. The examiner can normally be reached on 8:30-4:30.

7. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester G. Kincaid can be reached on 571-272-7922. The

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fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

8. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sayed T Zewari/

Examiner, Art Unit 2617

May 8, 2009

/Lester Kincaid/

Supervisory Patent Examiner, Art Unit 2617